

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-097

May 28, 1999

BANGOR HYDRO-ELECTRIC COMPANY
1999 Rate Plan Annual Review

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

As part of the annual rate review for Bangor Hydro-Electric Company's (Bangor Hydro or BHE) incentive rate plan, we grant BHE an increase in rates to core customers of \$2,033,901, or about 1.36%. The rate increase consists of a price cap adjustment for inflation minus productivity (negative \$478,040), and adjustments to reflect three exogenous factors, increased NEPOOL/ISO expenses (\$502,604), amortization of the reasonable and incremental deferred ice storm costs (\$1,434,614) and the amortization of deferred Maine Yankee costs, primarily related to decommissioning (\$574,723).

We decline to offset or defer the rate increase by anticipating the revenue requirement savings from the generation asset sale, as requested by the Public Advocate. BHE seeks the rate increase now and deferral of the benefits from the asset sale until March 1, 2000. As the question is one of timing only, we will defer to BHE's view that it is preferable for its customers to begin receiving the benefits of the asset sale at the time electric restructuring takes effect.

II. BACKGROUND AND POSITION OF THE PARTIES

In BHE's most recent rate case, Docket No. 97-116, the Commission implemented an incentive rate plan for Bangor Hydro. As part of that rate plan, BHE was required to make a filing on February 15, 1999 to support implementation of any necessary change in rates pursuant to the rate plan and to provide certain other information described in the rate case order.

In its February filing, BHE proposed an increase in rates to core customers of approximately \$3 million, or about 2%. BHE asked for approximately \$1.46 million related to amortization of deferred ice storm costs, \$.6 million related to amortization of deferred Maine Yankee costs and \$.91 million related to the recovery of incremental ISO New England and NEPOOL regional transmission service charges. BHE proposed that no adjustment be made pursuant to the price cap mechanism although Bangor Hydro acknowledged that the formula implemented as part of the rate plan would produce a negative adjustment. BHE also reported that 1998 earnings were not outside the rate plan bandwidth so that no earnings or losses should be shared in accordance with the rate plan.

After notice and opportunity to intervene, the Public Advocate's petition to intervene was granted. The parties and advisors engaged in discovery and participated in a number of technical and settlement conferences.

Through discovery and technical conferences, the parties have narrowed the issues in dispute. The parties agree, after minor adjustments, to the total amount of reasonable and incremental ice storm costs. The parties also agree that a 4-year amortization of the deferred ice storm expenses is reasonable. They acknowledge that federal reimbursement of some of these funds remains a possibility, but that even under the most optimistic scenario, ratepayers will have to contribute at least 25% of the total expense. The parties agree that the unamortized balance will be examined again in setting T&D rates for March 1, 2000 and any federal contribution will be factored in the amortization at that time.

Maine Yankee costs were deferred by BHE in accordance with the Commission Order in Docket No. 97-116. Bangor Hydro proposes a 3-year amortization of the balance accumulated as of April 30, 1999. BHE has made updates and corrections, including adjustments consistent with the stipulation in the Maine Yankee rate case at the FERC. The parties agree with BHE's updates and corrections.

In the Docket No. 97-116 Order, the Commission stated that BHE could seek recovery of increased NEPOOL and ISO New England charges as an exogenous change.¹ In its filing, Bangor Hydro requested an additional \$900,000 for NEPOOL and ISO New England costs. Because of decisions made by FERC subsequent to its filing, BHE now requests an additional \$500,000 for its NEPOOL and ISO expenses. The parties agree that BHE is entitled to a rate increase to reflect the increased NEPOOL/ISO expense of \$502,604.

The parties agree that the price cap formula chosen by the Commission for BHE's rate plan produces a negative revenue requirement adjustment of \$478,040. Inflation is measured by the gross domestic product (GDP) deflator, which was approximately .88 for 1998. Subtracting the 1.2% productivity offset established by the Commission in Docket No. 97-116 yields a negative .32% adjustment factor. BHE asserts, however, that the inflation factor adjustment should be disregarded for 1999. Bangor Hydro argues that it was never contemplated that productivity increases could outstrip the impact of inflation. BHE cites the Central Maine Power Company Alternative Rate Plan Stipulation (Docket No. 92-345 Phase II) as precedent for a sliding scale productivity factor that decreased as inflation decreased. BHE asserts that the Commission must have implied a similar condition for BHE. All price cap formula examples used an inflation rate higher than the productivity offset. BHE argues that the Commission never intended a negative adjustment when inflation was lower than the productivity offset.

The OPA disagrees with BHE's position concerning the rate cap adjustment. The OPA argues that BHE's price cap was meant to be simple and that the

¹The increased expenses must exceed the aggregate \$300,000 amount provided in rates in the last rate case.

Commission did not intend to implement an implicit sliding scale productivity factor as BHE's argument would necessitate. In the Public Advocate's view, the rate cap mechanism established by the Commission is not ambiguous and the negative revenue requirement adjustment should be implemented in this case.

The other disputed issue concerns an exogenous factor that was not raised by the Company's filing. Bangor Hydro has sold its generation assets to PPL Global, a transaction authorized by the Commission in Docket No. 98-820. BHE expects to close that transaction by June 1, 1999. The parties agree that after the sale the revenue requirements associated with Bangor Hydro not owning the assets, but rather buying back the power from PPL, are negative. In other words, it is cheaper for Bangor Hydro to buy back the power from PPL than it is for Bangor Hydro to own the assets outright, at least under the terms of the buyback agreement negotiated by BHE.²

The parties disagree as to the exact revenue requirement savings because they disagree as to the proper cost of capital that should be applied to calculate the savings from no longer requiring a return on the assets formerly in rate base. The parties agree, however, that even accepting Bangor Hydro's position on using the incremental cost of capital, the revenue requirement savings associated with the buyback arrangement will be at least \$2.1 million.³ The parties also agree that the issue of calculating the savings associated with the sale of the assets and the buyback of the power is properly in Bangor Hydro's so-called mega-case, Docket No. 97-596.

However, the Public Advocate asserts that because we know that the revenue requirements savings associated with the buyback will be at least as large as the rate increase otherwise associated with the rate plan, assuming the rate cap mechanism is accounted for, the Commission should not increase rates at this time. Either the Commission should continue the deferral of the ice storm and Maine Yankee costs or the Commission should begin the amortization of the ice storm and Maine Yankee costs as Bangor Hydro has requested and also begin recognizing, as an exogenous factor, an amount of revenue requirement savings necessary to offset the ice storm and Maine Yankee amortization.

BHE objects to the OPA's position to delay or offset the rate plan rate increase. The ice storm and Maine Yankee deferrals are known and ready to be reflected in rates in accordance with the criteria established in the rate plan order. Although BHE agrees that the asset sale/buyback savings are properly exogenous to the rate plan, the Company argues that the Commission should bank those savings until March 1, 2000. The ratemaking implications of the asset sale are still being worked out in Docket No. 97-596. Many other issues exist in Docket No. 97-596. The Commission and the parties are uncertain as to the exact level of T&D rates, including stranded costs, that

²BHE does not buy back the power from Wyman 4 but the calculation of revenue requirement savings includes BHE's cost of replacing Wyman 4 power on the market.

³Calculating the savings using the most recent overall cost of capital produces revenue requirement savings in excess of \$2.5 million.

will be set for March 1, 2000. By delaying or offsetting any proposed increase associated with the ice storm and Maine Yankee deferrals, the Commission has less leeway to offset any unexpected cost increases associated with restructuring. In BHE's view, it is important that rates be reduced or at least not increased on the date of retail access.

III. DECISION

A. Price Cap Mechanism

We agree with the Public Advocate that the plain meaning of our rate plan order requires a negative revenue requirement adjustment in this annual rate plan proceeding. Alternative rate plans are intended to make ratemaking simple and provide a utility an incentive to be efficient. In times of low or nonexistent inflation, a utility's efficiency should permit cost reductions.

There is no economic justification for adopting the rationale advocated by BHE that productivity gain should be tied to inflation. Had we believed there was an economic justification for the position that productivity diminishes in times of low inflation, we could have adopted a sliding scale productivity factor. We did not do so in Docket No. 97-116, and we decline to do so now.

Accordingly, the price cap mechanism should be reflected in BHE's rate adjustment, producing a negative revenue requirement of \$478,040.

B. Deferral of Rate Increase

The parties agree that their dispute as to deferral of any rate increase at this time is simply a matter of timing. Ratepayers and shareholders should be indifferent over the long term to either option. The question becomes whether any of the savings associated with the asset sale should be passed onto ratepayers now or whether that saving should be delayed until all the potential costs and benefits of restructuring begin to be reflected in rates on March 1, 2000.

We find that our "strict construction" approach to the price cap supports BHE on the timing question. The ice storm and Maine Yankee deferrals are ready to be reflected in rates in accordance with our Order creating the rate plan in Docket No. 97-116. The savings associated with the asset sale and buyback costs, while properly an exogenous factor within the rate plan, are not known and measurable at this time. We agree that the revenue requirement savings associated with the buyback are properly an exogenous change and, when we decide how to properly measure those savings, should be outside the rate plan process and passed along to ratepayers as stranded cost savings.⁴ We decline to accept OPA's invitation to pass along those

⁴Bangor Hydro must defer all revenue requirement savings associated with the sale of its generating assets and the simultaneous purchase power buyback agreement. The Company should submit a plan for measuring the net savings within

savings now. There are many variables yet to be determined in setting BHE's T&D rates for March 1, 2000. We prefer to bank all the savings until March 1, 2000, to give us a greater chance of being in a position to reduce customer rates coincident with the beginning of retail choice.

Accordingly, we

O R D E R

1. that Bangor Hydro Electric is permitted to implement new rate schedules designed to recover an additional \$2,033,901 from core customers, for effect on June 1, 1999;
2. that the rate schedules files with the Commission on May 24, 1999 and attached to this Order, comply with the requirements of this Order and will be effective in June 1, 1999; and
3. that Bangor Hydro Electric account for the sale of generation assets and buyback transaction as described in the Order.

Dated at Augusta, Maine this 28th day of May, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

THIS DOCUMENT HAS BEEN DESIGNATED FOR PUBLICATION

30 days of the Order. That plan will be considered in Docket No. 97-596, the so-called "mega-case."

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.